

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
And Nora Mead Brownell.

Florida Gas Transmission Company      Docket No.   CP00-40-008

ORDER DENYING REQUESTS FOR REHEARING AND  
RECONSIDERATION AND DISMISSING REQUEST FOR STAY

(Issued September 20, 2002)

1. On July 27, 2001, the Commission issued an order in this proceeding authorizing the construction and operation of Florida Gas Transmission Company's (Florida Gas) Phase V Expansion.<sup>1</sup> On April 9, 2002, Commission staff sent a letter to Florida Gas notifying it that it could proceed with construction of Compressor Station 27 (Station 27), one the the new facilities approved in the July 27 order. On May 6, 2002, the Citizens For A Better Thonotosassa, Inc. (Citizens) filed a motion to intervene out of time, motion to stay the construction of Station 27, and requests for reconsideration of the Commission's July 27, 2001 order and, pursuant to Rule 1902,<sup>2</sup> rehearing of the April 9 letter. Laura J. Moran also filed a late motion to intervene in opposition to the location of the compressor station.

2. For the reasons discussed below, we are granting the late motions to intervene, denying the requests for reconsideration and rehearing, and dismissing as moot the motion for stay.

**Background**

3. Florida Gas requested authority to construct and operate Station 27 on August 1, 2000 when it filed an amendment to its Phase V Expansion to add Tampa Electric Company (Tampa Electric) as a customer to be served by the expansion. Tampa Electric

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<sup>1</sup>Florida Gas Transmission Co. and Gulf South Pipeline Co., LP, formerly Koch Gateway Pipeline Co., 96 FERC ¶ 61,151 (2001).

<sup>2</sup>18 CFR §385.1902 (2002).

needs gas service due to an environmental settlement with federal and state environmental regulatory authorities pursuant to which it agreed to a comprehensive program to decrease overall emissions from its power plants. Tampa Electric is installing high-efficiency, combined-cycle technology to replace coal-fired units at its Bayside Power Station and will use gas to reduce its use of fuel oil at its Polk and Hardee facilities. Florida Gas needs the compression provided by Station 27 to serve Tampa Electric at its Bayside, Polk, and Hardee facilities.

4. The April 2001 Draft Environmental Impact Statement (DEIS) prepared by Commission staff for Florida Gas' Phase V Expansion proposal stated that the proposed site for Station 27 was environmentally acceptable. However, the DEIS noted that Florida Gas had not been able to come to terms with the owner of the proposed site and stated a preference for a site that could be obtained by negotiation rather than through the power of eminent domain.<sup>3</sup> The DEIS recommended that Florida Gas evaluate alternative sites for Station 27 and file the results of the evaluation for inclusion in the Final Environmental Impact Statement (FEIS). In a March 28 data request, staff also requested Florida Gas to evaluate alternative sites for Station 27 and to provide the Commission with a list of landowners within one-half mile of the alternate site for notification purposes as required by the Commission's regulations.<sup>4</sup>

5. On April 17, 2001, Florida Gas filed a response stating that it had looked at a four-mile corridor along its pipeline within which it was potentially feasible to locate Station 27. Of nine possible sites within that corridor, Florida Gas determined, upon closer inspection, that seven were not feasible. Of the two remaining sites, Florida Gas eliminated one because the owner was unwilling to divide the 65-acre property which was far in excess of what Florida Gas needed for a compressor station. Florida Gas stated that the remaining site was close to the needed size, was environmentally acceptable, and was for sale by a willing seller.

6. By letter dated May 15, 2001, Florida Gas provided staff with a list of landowners that Florida Gas stated were within a half-mile radius of the alternate site. The list consists of 159 names and addresses of owners of 197 parcels of land. Florida Gas states that it generated the list using the then most recent tax maps from the Hillsborough County Property Appraisers Office in accordance with the Commission's regulations.

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<sup>3</sup>See DEIS at 3-101.

<sup>4</sup>See 18 CFR § 157.6(d)(2)(iii) (2001).

7. On May 21, 2001, Commission staff mailed by first class mail a packet of information to the 159 addressees. The packet included a three-page notice explaining that a site in the addressee's area was being considered as an alternative location for Compressor Station 27 and informing the addressee that it had the opportunity to participate in the Commission's process, comment on the alternative location, and intervene in the proceeding. The notice gave instructions for filing comments and information on becoming an intervenor. Attached to the notice was a map showing the proposed alternative location for the compressor station, a 17-page excerpt from the DEIS containing material relevant to Station 27 specifically and to compressor stations generally, and the Commission's one-page "How to Intervene in Commission Proceedings" sheet. The notice stated that comments regarding the alternate location for Station 27 would be accepted until June 8, 2001. The Commission received no responses to the notice.

8. In May and June 2001, Florida Gas filed a cultural resource survey, a phase I environmental site assessment which included soil and wildlife surveys, and a background noise survey for the alternative site. Florida Gas also began negotiations with the landowner's agent to purchase the site. In July 2001, staff issued the FEIS for the Phase V Expansion. The FEIS concluded that the alternative site was equally environmentally acceptable as the originally proposed site and recommended that Florida Gas construct Station 27 at the alternative site if it could not reach a voluntary settlement for purchase of the original site. On July 27, 2001, the Commission issued its order agreeing with the conclusions in the FEIS and approving the Florida Gas Phase V Expansion.

9. Since Florida Gas could not reach a voluntary agreement with the owner of the original site for Station 27, Florida Gas executed a purchase and sale agreement for the alternative site on September 19, 2001. The parties agreed that if the seller could not provide clear title within 120 days, it would seek court-acquired clear title. On February 26, 2002, the court entered unopposed orders providing clear title and Florida Gas now owns the property. On April 9, 2002, Commission staff notified Florida Gas that it could begin construction of Station 27 at the alternative site.

### **Procedural Issues**

10. Citizens, a non-profit organization incorporated in the state of Florida, was created by a group of citizens and landowners in Hillsborough County, Florida as an advocacy group to challenge the approved alternative location of Station 27. They request late intervention in this proceeding. They state that they only recently became aware of the extent of the adverse impacts upon their interests that will result from locating Station 27 at the authorized alternative site. They argue that the Commission did not provide

adequate notice and opportunity to comment on the environmental issues related to the site as required by the National Environmental Policy Act (NEPA). In support of this contention, Citizens attached to the pleading affidavits executed by 65 landowners and, in many cases, copies of their deeds. Thirty of the 65 landowners state that they were not, but should have been, on Florida Gas' mailing list of affected landowners. Thirty-five who were on the mailing list, and who were sent notices by Commission staff, state that they have no knowledge of receiving the notices.

11. In light of these 65 affidavits, we find that Citizens has met the higher burden needed to justify intervention after issuance of a dispositive order. We will therefore grant their late motion to intervene. Citizens appropriately requests reconsideration rather than rehearing of the July 27 order, since the 30-day statutory time limit to seek rehearing of that order<sup>5</sup> expired 8 months prior to their May 6, 2002 filing.

12. On March 22, 2002, Laura J. Moran filed a late motion to intervene in this proceeding in opposition to the location of Station 27 near her home. Ms. Moran is particularly concerned that pollution from the compressor station could affect her disabled daughter who has numerous health problems. Ms. Moran states that she purchased her residence on August 31, 2001 and was never notified that the compressor station was to be built near her new home. Unfortunately, Ms. Moran purchased her home several months after the May 21, 2001 notice was sent. The notice was mailed to the previous owner who apparently did not inform Ms. Moran of the pending construction. For good cause shown, we will grant Ms. Moran's late motion to intervene and take into consideration her comments on the approved alternate site for Station 27.

13. Florida Gas filed an answer to the rehearing request and both Florida Gas and Citizens filed answers to answers. Although the Commission's procedural rules do not allow answers to requests for rehearing or to answers,<sup>6</sup> we may, for good cause, waive this provision.<sup>7</sup> We find good cause to do so in this instance in order to insure a complete record in this proceeding.

14. On August 23, 2002, Florida Gas filed a motion to expedite the Commission's ruling on Citizens requests for late intervention, rehearing, and reconsideration. Florida Gas states that it has spent both time and money in pursuit of construction of its Phase V Expansion and must commence construction in October 2002 to assure timely completion

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<sup>5</sup>See 15 U.S.C. §717r (2000).

<sup>6</sup>See 18 CFR § 385.213(a) (2001).

<sup>7</sup>18 CFR § 385.213(a)(2) (2001).

of the project. The project includes repowering of the Tampa Electric generating plant and the conversion of that facility from coal to natural gas. Florida Gas states that Tampa Electric needs to commence service on or about May 1, 2003. Florida Gas states that it is in the public interest for this project to be timely completed so that the Florida public can benefit from a reduction of over 91,000 tons of emissions from Tampa Electric's generating plant due to the conversion to gas power.

### **Citizens August 23, 2002 Filing**

15. On August 6, 2002, the Commission's Director of Energy Projects met with Citizens, representatives of Florida Gas, and Florida Congressman Bilirakis in Thonotosassa to discuss the location of Station 27. On August 23, 2002, Citizens filed a letter describing the conclusions reached at a subsequent Citizens'-sponsored town meeting held on August 19, 2002. Accepting the fact that Station 27 must be located in Thonotosassa, Citizens chose their preferred sites from the 9 alternate sites identified by Florida Gas and described in its April 17, 2001 filing. Citizens concludes, first, that the compressors should be electrically-powered rather gas-powered as proposed by Florida Gas and second, that the community strongly prefers Florida Gas' Alternate Sites 1 and 2, neither of which is the approved site. Since Citizens filed its letter, several residents of Thonotosassa filed letters with the Commission disagreeing with Citizens' conclusion that Sites 1 and 2 were the best alternative sites for Station 27.

16. Although we commend Citizens for their efforts to objectively choose an alternative site for Station 27, we regret that we cannot approve their preferred alternative sites. We compare Alternate Site 1 with the approved site in detail below in response to Citizens' previous filings in this proceeding arguing that Site 1 is the preferable location for Station 27 and find that the approved site is preferable. Alternate Site 2 is within 1300 feet of Site 1 and suffers from most of the same shortcomings. Therefore, our reasons for rejecting Site 1 are equally applicable to Site 2. In addition, given the differing opinions expressed by residents of Thonotosassa as to the best site, there is a reasonable potential that moving the compressor site would simply shift the burden from one group of landowners to another group that would be equally opposed to the new site. We also note that no state or local agencies have indicated objections to the approved site.

### **Discussion**

### Notice

17. Citizens argue that the Commission did not provide them with adequate notice of the proposal to locate Station 27 near their properties. As stated above, Citizens filed affidavits executed by 65 landowners claiming that their property is within one-half mile of the Station 27 site. The 65 affiants represent a total of 46 parcels of land owned by individuals or sets of individuals at 44 addresses. Thirty of the affiants state that they were not on the mailing list provided by Florida Gas to the Commission although, they state, they were shown on the Hillsborough County tax rolls as owning their property on or before June 30, 2000. Thirty-five of the affiants claim they were on the list but never received the notice. Citizens also claim that other unnamed landowners received the May 21 notice either just before or after the comment date of June 8, 2001, and assumed that any late comment would be of no value. Citizens also allege that many homeowners who received timely notice assumed that the alternate site was a "fallback" position and thus did not comment on the notice. Finally, in their May 31 reply, Citizens provides another list of 48 owners of 32 parcels that they claim should have been on Florida Gas' mailing list.

18. The Commission's regulations require pipelines to make a good faith effort to notify landowners within a one-half mile radius of proposed compressors or their enclosures.<sup>8</sup> The regulations also provide that the pipeline should identify the affected landowners by using the most recent county/city tax records of landowners who received a tax notice for the affected property. Florida Gas compiled its list of affected landowners using the February 2001 Hillsborough County Property Appraiser's Tax Map, which the county uses for tax assessment purposes. The February 2001 Tax Map was the most recent map when Florida Gas prepared its mailing list in May 2001.

19. Both Citizens and Florida Gas filed copies of relevant portions of the Tax Map. Their maps were prepared by the Hillsborough County Property Appraiser in April and May 2002, respectively. Each maintains that its map delineates the required half-mile radius around the approved alternative site for Station 27. Citizens' map shows a computer-generated circle around the site indicating which properties are within 2,740 feet of the site, while the computer generated circle on Florida Gas' map indicates which properties are within 2,640 feet of the site. Since one-half of a mile is 2,640 feet, Citizens map includes a 100 foot-wide area around the perimeter of the circle that is outside of the required one-half mile radius. Thus, as discussed below, a number of properties Citizens believe are within a half-mile radius of the compressor station site are not.

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<sup>8</sup>18 CFR § 157.6(d) (2002).

20. Our analysis of the various maps, lists of properties and owners, affidavits, and deeds filed by Citizens and Florida Gas indicates that Florida Gas failed to include on its mailing list the owners of 3 properties<sup>9</sup> shown on the Hillsborough County February 2001 Tax Map. Eleven of the 30 affiants who maintain that they should have been on Florida Gas' mailing list actually were on the list. Eight others own property located outside of the one-half mile radius. Another 8 affiants own parcels in two subdivisions that were not shown on the February 2001 Tax Map.<sup>10</sup> Of the 32 parcels on Citizens' May 31 list, only 9 are inside the half-mile radius.<sup>11</sup> Of these, only 2 are parcels different from those identified in the rehearing request. One of these was on Florida Gas' mailing list and the other was not, but should have been. Thus, from Citizens' two filings, we find three parcels of land with 5 owners who should have been on Florida Gas' mailing list but were not.

21. As to the eight affiants who own subdivided property that was not on the February 2001 Tax Map, Citizens argues that Florida Gas should have searched the public records to find the record owners within the half-mile radius rather than rely on the Property Appraiser's Tax Map. We note that 3 of the 8 affiants<sup>12</sup> purchased their subdivided lots in November 2001 and January 2002, and thus could not have been on Florida Gas' May 2001 mailing list under any circumstances. The 5 remaining affiants, holding 3 subdivided lots, apparently owned their properties at the time Florida Gas prepared its mailing list. Nevertheless, we find that Florida Gas properly relied on the most recent tax maps from the Hillsborough County Property Appraiser to identify the parcels within a half-mile of the site. After obtaining a list of the affected parcels and their related folio numbers from the Tax Map, Florida Gas used the folio numbers to search the Hillsborough County Property Appraiser Online Inquiry System to obtain the addresses of the owners. Our regulations do not require a search of the county deed books to verify

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<sup>9</sup>Two of the 3 properties are owned by affiants from Citizens's rehearing request. The third property is identified in Citizens' May 31 reply.

<sup>10</sup>The February 2001 Tax Map shows two large parcels where these 8 affiants now own smaller subdivided lots. Florida Gas' mailing list includes the names of those who owned the two large parcels before they were subdivided. We note that one of the subdivisions is still not reflected on the 2002 Tax Maps filed by Citizens and Florida Gas.

<sup>11</sup>Twelve of the parcels were referenced in Citizens rehearing request which represent 16 owners whose affidavits were filed with the rehearing request.

<sup>12</sup>Citizens included two affidavits from Beulah Hill since she owns 2 parcels and signed 2 affidavits. Since Citizens counted Ms. Hill as 2 separate affiants, 2 of the 3 affiants who purchased their land after May 2001 are Ms. Hill.

the information on the county tax map as Citizens suggest. Such an undertaking would be massive, costly, and inordinately time consuming.

22. Florida Gas acknowledges that owners of three parcels should have been on the mailing list but were inadvertently not included. While this failure is regrettable, there is no evidence that it was intentional. As we stated above, our regulations require a good faith effort by pipelines to notify property owners. We do not find that 3 excluded properties out of 200 demonstrates a lack of good faith. We also note that our regulations require notice to property owners "within one-half mile of the compressors or their enclosures," not one-half mile from the boundaries of the property on which the compressors will be located. Since at the time Florida Gas compiled its list it did not know exactly where on the property it would install the compressors, it erred on the side of caution and measured a one-half mile radius from each of the four corners of the property and points in between. In that way, no matter where the compressors finally were installed on the site, no property within a half-mile radius of the compressors would be excluded from the list and, inevitably, property farther than one-half mile from the compressors would be included. Based on this discussion, we conclude that, as required by our regulations, Florida Gas made a good faith effort to notify all of the landowners within the required half-mile radius.

23. As we stated above, Citizens filed affidavits from an additional 35 property owners who were on Florida Gas' mailing list but claim they did not receive the notice mailed by Commission staff. Specifically, they state in their affidavits that they examined a sample of the notice and its envelope and that they have "no knowledge of receiving such envelope or notice from the Federal Energy Regulatory Commission..." Citizens argues that non-receipt by 35 landowners rebuts any presumption of receipt that would otherwise govern. Noting that nearly a year elapsed between the Commission's May 21, 2001 mailing of the notices and the April 30 - May 1, 2002 preparation of the affidavits, Florida Gas believes the 35 landowners simply do not remember receiving the notice.

24. Commission staff sent notices to the 159 names and addresses on Florida Gas' mailing list by first class mail, as required by the Commission's landowner notification regulations.<sup>13</sup> We believe that notice by first class mail is a reasonable method of apprising interested parties of the pendency of an action that may affect them and affording them an opportunity to present their objections. Generally, the Commission

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<sup>13</sup>18 CFR § 157.6(d)(i) (2002).

considers notices to have been served when they are deposited in the mail.<sup>14</sup> Indeed, Citizens acknowledge that many landowners received the notices yet they chose not to comment on the proposed alternate site for the compressor station. Citizens contentions that those who received the notices either thought it was too late to comment on the proposed site or assumed that it was not worth commenting on an alternative site are unsupported. Nevertheless, as we stated above, in light of the 35 landowners who signed affidavits stating that they had no knowledge of receiving the notice, we will address the substance of their arguments against the location of Station 27 near their properties.

### **Alternative Sites**

25. Citizens argue that the Commission failed to comply with the NEPA since, in the FEIS, the July 27, 2001 order, and the April 9, 2002 letter, the Commission neither adequately considered the alternate sites to the location of Station 27 identified by Florida Gas in its April 17, 2001 data response, nor independently determined appropriate alternate sites. They maintain that, although Florida Gas identified nine potential alternative locations for Station 27, the FEIS only considered one of them, the location ultimately approved in the July 27, 2001 order. They further allege that the Commission did not independently evaluate the alternate site.

26. We disagree that we did not adequately consider alternate sites. We are required by NEPA to analyze the environmental consequences of alternatives that are feasible, practical, and effective.<sup>15</sup> Feasible sites for compressor stations are limited since stations must be adjacent to a specific pipeline at a site along the pipeline route determined by engineering studies to be the most effective for providing the necessary compression. In addition, the Commission determined that the availability of property for permanent aboveground facilities was an appropriate factor in the consideration of alternative sites, all other environmental factors being equal.

27. To serve Tampa Electric, Florida Gas must locate Station 27 on Florida Gas' 30-inch West Leg Extension between its proposed Bayside Lateral and its existing 18-inch St. Petersburg/Sarasota Connector Pipeline. Based on hydraulic flow studies, Florida Gas identified milepost 160 near county road 579 as the optimum location for Station 27 with a window of two miles upstream and two miles downstream of the optimum site. Florida

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<sup>14</sup>See, e.g., § 385.2010 (g) (2002) of the Commission's regulations ("[s]ervice is made under this section when the document served is deposited in the mail...").

<sup>15</sup>All Indian Pueblo Council v. United States, 975 F.2d 1437, 1444 (10th Cir. 1992), citing City of Aurora v. Hunt, 749 F.2d 1457, 1467 (10th Cir. 1984).

Gas' right-of-way personnel performed field surveys and found eight possible sites within that four-mile corridor. Engineering and right-of-way personnel made further field inspections and eliminated five of the sites due to their proximity to houses and future housing developments and another site for being located in prime orange groves. The owners of one of the two remaining sites decided that they were unwilling to sell the land and proposed to sell Florida Gas a different nearby parcel.<sup>16</sup> Although Florida Gas determined that the site proposed by the landowners met its requirements, the landowners refused to sell anything less than the entire 65 acre site, considerably more land than necessary. One alternate site remained that had willing sellers and met all of Florida Gas' other requirements, the site on County Road 579 at issue in this proceeding. Since this was the only alternate site that was feasible, practical, and effective, the Commission met NEPA's requirement to adequately consider alternatives.

28. Citizens' assertion that that the Commission did not independently evaluate the alternate site is without merit. Commission staff and the Commission's environmental consultants visited both the originally approved site and the alternate site and conducted an independent analysis of each site.

29. Citizens argue that, for a number of reasons, the FEIS erroneously concludes that the impact of the alternate location is environmentally acceptable. None of their reasons support their contention.

30. As Citizens point out, the FEIS states that residents in the vicinity of aboveground facilities such as Station 27 could be affected by noise and dust during construction. However, this statement applies to all such construction, is temporary, and does not amount to a significant adverse impact.

31. Citizens point out that the FEIS states that there are substantial concerns about visual impacts of the proposed compressor stations since they would be visible from nearby residences and vehicles on adjacent roads. However, the FEIS also specifically discusses visual impacts at the alternative site (FEIS at 3-116 and 3-117) and recommends mitigation measure 27. That measure requires Florida Gas to provide landscaping plans for the site to be reviewed by the Commission. The July 27 order adopts and requires the mitigation measure since well-designed landscaping significantly reduces any negative visual impact of compressor stations. Florida Gas filed its landscaping plan for Station 27

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<sup>16</sup>Although a certificate confers the power of eminent domain on the certificate holder, the Commission much prefers that pipelines acquire sites for permanent, aboveground facilities from willing sellers without the need to rely on condemnation proceedings.

on March 22, 2002. The site consists of 20 acres of open agricultural fields with approximately 37 trees sparsely scattered throughout the site. Florida Gas will remove approximately 7 of the existing trees and will plant approximately 400 trees around the perimeter of the property. Florida Gas will also install an irrigation system for the new landscape area to help ensure that the newly planted trees will thrive.

32. Although Citizens is correct that the FEIS states that a multicomponent archeological site was recorded on the Station 27 site, they fail to point out that the FEIS also states that the site was "recommended as not being eligible for the [National Register of Historic Places]."<sup>17</sup>

33. The FEIS states that Florida Gas had yet to complete soil, wildlife, and vegetation surveys for the alternate site. However, staff had sufficient information based on, among other things, site visits, to make the following conclusions. No significant or unique wildlife habitats occur on the proposed aboveground facility sites; since Station 27 would be located in an open agricultural field, wildlife occurring in the area would be limited to small mammals and birds common to disturbed habitats; and since no forest would be cleared for Station 27, there would be no significant effect on wildlife habitat. The FEIS also states that, with exceptions inapplicable to Station 27, no unique, sensitive, or protected vegetation types or plant communities had been identified where the Phase V facilities would be located. Florida Gas filed soil and wildlife surveys on June 12, 2001, in its Phase I Environmental Site Assessment. The information in the surveys is consistent with and supports the findings in the FEIS. Thus, staff had sufficient information to support its finding that no mitigation measures were necessary with respect to soil, vegetation, and wildlife.

34. Citizens argues that the FEIS fails to adequately address land values and land use with respect to Station 27. However, the FEIS analyzes property value and indicates that it is subjective and depends on the value to the buyer (FEIS at 3-136). The FEIS discusses land use at length in Section 3.8 with respect to the Phase V Expansion and specifically discusses Station 27 on page 3-101. With respect to Station 27, the FEIS notes that the construction and operation of a compressor station involves essentially permanent impacts, for the life of the facility, and a preclusion of any use that the property owners may have had for the property. Consequently, the FEIS recommends that Florida Gas construct Station 27 on the alternate site if it cannot reach an agreement with the owners of the originally proposed site.

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<sup>17</sup>FEIS at 3-124.

35. Citizens also maintain that the FEIS relies on nationwide statistics with respect to public safety considerations and provides no specific discussion of the safety of the alternate site, an explosion and fire at one of Florida Gas' compressor stations triggered by lightning, or an explosion on a Florida Gas pipeline in Mobile County, Alabama. The FEIS addresses safety issues in Section 3.12. It states that Florida Gas' Phase V pipeline and aboveground facilities will be designed, constructed, operated, and maintained in accordance with the U. S. Department of Transportation Minimum Federal Safety Standards in 49 CFR Part 192. Since we addressed concerns about the explosion in Alabama in some detail in the February 15, 2002 order in this proceeding, we need not discuss it here.<sup>18</sup>

36. We received similar comments with respect to the possibility of lightning striking Compressor Station 31, another Phase V compressor station, and discussed that issue in the FEIS in Section 3.12.1. Florida Gas responded to the concerns by explaining that the design of Compressor Station 31 would include a professionally designed lightning protection system that would transmit lightning strikes through an extensive ground grid and grounding rods. Florida Gas also would use a surge suppression system to protect electrical equipment from power surges due to lightning strikes and use fiber optic cables to reduce the control system exposure to lightning since they are less likely to be damaged by lightning than conventional copper wiring. Florida Gas would install similar systems when it constructs Station 27.

### **Citizens' Proposed Alternate Site**

37. In their May 31, 2002 answer, Citizens recommends another site for Station 27, one Florida Gas identified as Alternate Site 1 in its April 17, 2001 data response. Florida Gas rejected Alternate Site 1, stating that it was too far west of its preferred station site and too close to existing houses and future housing developments. Citizens maintains that their analysis of Alternate Site 1 shows that Florida Gas' rejection of the site was based on inadequate and inaccurate information. Citizens claims that there is much greater residential development near the authorized site than is near Alternate Site 1.

38. On June 17, 2002, Florida Gas filed an answer in response to Citizens allegations. Florida Gas included in its answer copies of relevant portions of the Hillsborough County Unincorporated County 2015 Future Land Use Planning Map (Planning Map), and the Hillsborough County Planning Commission policy. The Planning Map shows that Alternate Site 1 is located within the county's designated Urban Service Area. The county's policy is to pro-actively direct new growth into the Urban Service Area so that at

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<sup>18</sup>Florida Gas Transmission Co., 98 FERC ¶ 61,6179 (2002).

least 80 percent of all population growth in the county will occur within that area during the next 13 years. Alternate Site 1 and some of the land surrounding it are classified to allow either four dwelling units per gross acre or 12 dwelling units per gross acre. On the other hand, the approved alternative site is within the county's designated Rural Area and is classified, as is the land immediately to its east, west, and south, as allowing one dwelling per 2.5 gross acres; the land immediately to the north is classified as allowing one dwelling per gross acre.

39. Thus, the Planning Map shows that the concentration of residential dwellings allowable on and near Alternate Site 1 is from four to 30 times greater than near the approved site. In addition, while there are over 500 existing residences within one-half mile of Alternate Site 1, there are approximately 200 residences within one-half mile of the approved site. Although it is preferable to site a compressor station where there are fewer existing residences and where plans for the future indicate there will continue to be a lesser concentration of residential dwellings than an alternative site, it is not always possible. Here it is possible.

40. Citizens also argue that any new housing developments on Alternate Site 1 are far in the future since the county has a policy that new developments must connect to public water and sewer systems, there is no public water and sewer system in the area, and the county has no immediate plans or budget to build such a system. In response, Florida Gas filed a copy of relevant portions of the Hillsborough County Central Water System Map (Water System Map). Although the Water System Map does not indicate an extensive public water and sewer system near Alternate Site 1, it does show an 8-inch diameter water line that runs along the entire western perimeter and part of the southern perimeter of Alternate Site 1 and connects to a 12-inch diameter water line that runs along Harney Road to the south of the site. In addition, the Hillsborough County planning policy indicates that by 2005, less than 3 years from now, the county will prepare a build-out plan for public water and sewer services within the Urban Service Area. We conclude that the plans and policies of the Planning Commission indicate that development near Alternate Site 1 will likely take place in the not too distant future. Given the greater number of existing residences and the probability of future residential development near Alternate Site 1, we find that it is environmentally inferior to the approved alternate site.

41. Citizens also assert that Florida Gas is currently seeking to purchase a portion of Alternate Site 1 and ask, if the land is for Florida Gas' Phase VI Expansion, why it did not simply obtain the entire site and use it for both Station 27 and its Phase VI Expansion. Florida Gas is not purchasing a portion of Alternate Site 1; it is acquiring an easement on the eastern edge of the site for right of way on which to construct a portion of the Bayside Lateral, part of the Phase V Expansion. The easement runs due south along a roadway from an existing Florida Gas pipeline that runs east to west across property north of Alternate Site 1. As with most natural gas pipelines, the lateral will be underground and

thus will be virtually unnoticed by surrounding property owners once construction and land restoration are complete, particularly when compared to permanent aboveground facilities such as compressor stations. Further, unlike the majority of the impacts associated with pipeline construction and operation, the construction and operation of a compressor station involves essentially permanent impacts and a preclusion of any use that the property owner may have had for the property. Therefore, it is not unreasonable to approve the acquisition of an easement for an underground pipeline on a site that we have found, at the same time, to be an inappropriate site for a compressor station.

42. For all of the reasons discussed above, we will deny reconsideration of the July 27 order.

43. Citizens also request rehearing of the April 9, 2002 letter. The letter consists of two paragraphs and approves Florida Gas' request to begin construction of Station 27 based on staff review of Florida Gas' filings in compliance with the environmental conditions in the July 27 order pertaining to Station 27. Citizens arguments address issues raised in the FEIS and in the July 27 order and make no substantive arguments based on the contents of the letter. We have addressed all of their objections to Station 27 and found no merit in them. We will therefore deny their request for rehearing of the April 9 letter.

### **Request for Stay**

44. Citizens request an emergency stay of construction of Station 27 until the Commission acts on its pleading. Since we are acting on its pleading and find that their requests for rehearing and reconsideration are without merit, we will dismiss as moot their motion to stay the construction of Station 27.

### **Air Quality**

45. Ms. Moran is concerned that pollution from Station 27 could harm her daughter. The FEIS indicates that Florida Gas conducted dispersion modeling, using the U. S. Environmental Protection Agency's (EPA) SCREEN3 model. The results indicate that the emissions from Station 27 should have a minimal impact on air quality and that the station would be a minor source under criteria established by the EPA for the Prevention of Significant Deterioration review. The Florida Department of Environmental Quality is responsible for issuing the necessary air quality permits to Florida Gas.

### **The Commission orders:**

(A) Citizens' requests for rehearing and reconsideration are denied.

(B) Citizens' motion for stay is dismissed.

(C) The late motions to intervene are granted.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.